REMARKS

Claims 1-47 are pending in this application. By virtue of this response to Restriction Requirement, claims 17 and 37-47 are withdrawn. Upon response to Restriction Requirement, claims 1-16 and 18-36 are under examination.

Restriction Requirement

The Examiner has required restriction to one of the following inventions as required under 35 U.S.C. § 121:

I. Claims 1-15 (in part), 16, 18-36 (in part), drawn to a method of treating heart failure in a patient, comprising delivering to said patient CGRP in an amount effective to provide symptomatic relief, wherein said CGPR is delivered to said patient as a controlled release composition.

II. Claims 1-15 (in part), 17, 18-36 (in part), drawn to a method of treating renal failure in a patient, comprising delivering to said patient CGRP in an amount effective to provide symptomatic relief, wherein said CGPR is delivered to said patient as a controlled release composition.

III. Claims 37-42, drawn to a method of preventing or reducing the risk of occurrence of myocardial infarction, comprising delivering to a human at risk of having a myocardial infarction a controlled release formulation of CGRP comprising an amount of CGRP effective to prevent or reduce the risk or occurrence of myocardial infarction.

IV. Claims 43-46, drawn to a kit comprising a first container comprising a controlled release formulation of CGRP.

V. Claim 47, drawn to a method of counteracting ischemia due to myocardial infarction in a patient, comprising delivering to said patient an amount of CGRP effective to provide

cardioprotection, wherein said CGPR is delivered to said patient as a controlled release composition.

Applicants hereby elect without traverse Group I, claims 1-15 (in part), 16, 18-36 (in part), drawn to a method of treating heart failure in a patient, comprising delivering to said patient CGRP in an amount effective to provide symptomatic relief, wherein said CGPR is delivered to said patient as a controlled release composition.

The Examiner states that the shared technical feature of invention Groups I-V, e.g., a controlled release formulation of CGRP and using the formulation for treating heart failure or renal failure, does not make a contribution over EP Patent No. 0845269 A2. See Office Action at page 3. Applicants respectfully disagree and reserve the arguments for the future response.

Applicants expressly reserve the right under 35 U.S.C. § 121 to file a divisional application directed to the non-elected subject matter during the pendency of this application, or an application claiming priority from this application.

Species Election

The Examiner has further required election of species of controlled release composition (five) as listed in claims 2, 20, 24, 27, 28; claims 32-36; and claims 38-42.

Applicants elect as the species of controlled release composition, a flowable thermoplastic polymer composition, as recited in claims 2 and 32.

Claims 1-16, 18, 19, and 30-32 read upon the elected species, within the elected group.

Applicants' election is made without prejudice. As noted by the Examiner, upon the allowance of a generic claim, Applicants will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim.

CONCLUSION

Applicants request examination of the elected subject matter on the merits.

In the unlikely event that the transmittal form is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing 560252000700. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: May 12, 2010

Respectfully submitted,

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